BORA LASKIN LAW LIBRARY
3 1761 10084668 2

SOCIAL SECURITY LAW

D.M. Beatty

Part I

Spring, 1980

AW LIBRARY
JAN 1 7 1930
FACULTY OF LAW
VERSITY OF TORONTO

FACU[illegible]RY
UNIV[illegible]TO

SOCIAL SECURITY LAW

D.M. Beatty

Part I

Spring, 1980

Faculty of Law

University of Toronto

KF
3300
A7
B4
1980
pt. 1

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/socialsecurityla00beat_0

SOCIAL SECURITY LAW

SPRING, 1980

PART I PERSONAL INCOME SECURITY

1. The Programmes:

Unemployment Insurance
Workmen's Compensation
Social Assistance

PART II RATIONALE OF PERSONAL INCOME SECURITY

1. What Is Poverty

(i) The Measure of Poverty - A Report to Congress as Mandated by The Education Amendments of 1974. U.S. Dept. of Health, Education & Welfare.

Jeffrey L. Jowell, Law and Bureaucracy Administrative Discretion and the Limits of Legal Action (New York: Dunellen [1975]) pp. 141-145.

J. Romanyshyn 1971, Social Welfare, Random House (175-183)

(ii) On Whom Is Poverty Visited?

Jencks, C. Inequality, Basic Books, 1972.

Harvard Journal on Legislation, vol 15, no. 2, 413-420. Review by Martin Bronfenbrenner.

(iii) Non-Financial Aspects of Poverty

Harrington, M. The Other America, Penguin Books, 128-146.

Romanyshyn, J.M. Changing Concepts of Social Welfare in Social Welfare: Charity to Justice.

Tenbroek, J. & Matson, F.W., The Disabled and the Law of Welfare, California Law Review, Vol. 54: 809.

Globe & Mail, Monday, December 10, 1979

2. Origins

Piven, F.F., Regulating the Poor, Pantheon Books, 1971.

Ogus, A.I. & Barendt, E.M. The Law of Social Security London: Butterworths 1978.

Fulbrook - The Poor Law Origins of Relief for the Unemployed

J. Romanyshyn, Social Welfare pgs. 183-199.

3. Theories and Objects

Brittain, J. The Inheritance of Economic Status (Brookings 1977)

Brudno, Income Maintenance, (WESTS) (1) (5), 15-37)

Michelman, On Protecting the Poor Through the Fourteenth Amendment. 83 Harv L. Rev. 7, exerpted in Brudno, Income Maintenance.

Winter, Poverty, Economic Equality & The Equal Protection Clause. Exerpted in Brudno, Income Maintenance.

Arrow, K.J. Comment on Rawls (1973), LXX Journal of Philosophy, 245.

Nozick, R. Anarchy, State and Utopia, Distributive Justice, 1974, pp. 149-182.

Gregory Vlastos, Justice and Equality, Social Justice Brandt ed.

Daniels, Norman, Equal Liberty & Unequal Worth of Liberty in leading Rawls.

Stigler, G.J., Director's Law of Public Income Redistribution, (1970) 13 Jnl. of Law and Economics.

Rodgers, J.D. Explaining Income Redistribution in Redistribution Through Public Choice. Columbia University Press, 1974.

C.B. MacPherson, "Liberal Democracy and Property" Property: Mainstream and Critical Positions (Toronto: Univ. of Toronto Press, 1978).

Varian, H.R. "Distributive Justice, Welfare Economics and the Theory of Fairness" (1974-5)4 Philosophy and Public Affairs 223.

H. Johnson, "Some Micro-Economic Reflections on Income and Welfare Inequalities", in H. Johnson, On Economics and Society.

4. The Role of the State

David. W. Pearce, ed., The Valuation of Social Cost (London: Allen & Unwin, 1978), pp. 8-29.

Terence G. Ison, "Human Disability and Personal Income", (1977) Studies in Can. Tort Law, 425-453; pp. 425-430.

Kenneth Arrow, "The Welfare Economics of Medical Care", American Economic Review, Vol. 53, December 1963.

5. Income Distribution in Canada

Munro, John. Income Security for Canadians Dept. of National Health & Welfare pp. 14-37.

Income Distribution by Size in Canada, Statistics Canada, 13-206, 1977, Preliminary Estimates.

W. Irwin Gillespie, "On Redistribution of Income in Canada," (1976) 24 Cdn Tax Jo. 419-450.

M. Denny and S.A. Rea, Pensions and Saving in Canada, 1978, p. 36.

PART III THE METHODS OF DISTRIBUTION

1. Benefits

(A) Criteria for Evaluating ReDistributive Mechanisms

(i) Some Suggested Criteria

B. Weisbrod from The Analysis and Evaluation of Public Expenditures: The PPB System vol. 1 p. 183.

Tobin, J. On Limiting The Domain of Inequality (1970) 12 Jnl Law & Econ 263.

Tobin, J., Pechman, J.A. & Mieszkowski, P.M., Is a Negative Income Tax Practical? The Yale Law Journal, volume 77, number 1, November 1967.

Speth, Cotton and Bell, "A Model Negative Income Tax Statute", (1969), 78 Yale Law Journal, 269.

A.I. Ogus and E.M. Barendt The Law of Social Security (London: Butterworths, 1978) pp. 19-26.

Jack Minkoff and Lynn Turgeon, "Income Maintenance in Eastern Europe," Social Policy, vol. 6 (Mar-April, 1976), 33.

(ii) Equities

(a) Horizontal and Vertical

Ontario Economic Council, Issues and Alternatives, 1976.

Cloutier, J.E. "The Distribution of Benefits and Costs of Social Security in Canada, 1971-1975", Economic Council of Canada, Paper no. 108, 1978.

U.S. Congress J.E.C. Studies in Public Welfare (#4 Income Transfer Programs: How They Tax the Poor) By Robert I. Lerman

Geoffrey N. Calvert, Pensions and Survival: The Coming Crisis of Money and Retirement (Toronto: Maclean-Hunter, [1977]) pp. 68-75.

Warwick & The Minister of Community & Social Services (1979) 21 OR 2nd 528.

Proc & Minister of Community & Social Services (1975) 6 OR 2d

DeLima & Minister of Community & Social Services [1973] 2 OR 821.

Elliott & Attorney-General of Ontario et al [1973] 2 OR 534

Smith & Attorney-General of Ontario et al [1973] 2 OR 138

Fawcett & Board of Review, Ministry of Community & Social Services (1974) 1 OR (2d) 772.

(b) Temporal (Accounting)

"Designing Income Maintenance Systems: The Income Accounting Problem" by Jodie T. Allen

(iii) The Integration of Benefits and Taxes

A.I. Ogus and E.M. Barendt, The Law of Social Security (London: Butterworths, 1978), pp. 34-9.

Ontario Economic Council, Issues and Alternatives, 1976, "Health".

(B) Individual vs. Social Preferences: Cash vs. In-Kind Benefits

Boston Globe, November 21st, 1968.

R.L. Miller, Intermediate Microeconomics, McGraw Hill, 1978, pp. 34-37.

Maria Schmundt, et al., et al., "When do Recipients Value Transfer at their Costs to Tax Payers?", in Lurie, Integrating Income Maintenance Programs, Academic Press, 1975.

(1976) 19 Jnl Law & Econ 245. Becker, Gary, Comment.

Lester C. Thurow, "Government Expenditures: Cash or In-Kind Aid?," Markets and Morals, eds. Gerald Dworkin, Gordon Bermant, and Peter G. Brown (Washington: Hemisphere, [1977]).

Geoffrey N. Calvert, Pensions and Survival: The Coming Crisis of Money and Retirement (Toronto: Maclean-Hunter, [1977]), pp. 159-162.

Samuel A. Rea, Jr., Lump Sum Versus Periodic Damage Awards

(C) Indirect Benefits

Frank De Leeuw, et al., "The Design of a Housing Allowance," The Urban Institute (1970).

Ontario Economic Council, Issues and Alternatives: 1976 Housing

Jeffrey Egner, Personal Injury Awards and Workmens Compensation, 1977.

Ontario Economic Council Issues & Alternatives, Health 1976.

C. Jencks, Inequality, Basic Books, 1972.

(D) (i) Categorical vs. Universal Schemes

Workmen's Compensation Board v. CPR and Noell [1952] 2 SCR 359.

Her Majesty The Queen & Malcolm McCauley & Norman McCauley [1955] Ex CR 320.

Mary Farrell et al & Workmen's Compensation Board [1962] SCR 48.

J. Tenbroek and F.W. Matson, "The Disabled and the Law of Welfare," 54 Calif. Law Rev. 809.

Terence G. Ison, "Human Disability and Personal Income," (1977) Studies in Can. Tort Law, 425-453, pp. 443-446.

Palmer, Geoffrey "Accident Compensation in New Zealand: The First Two Years", American Journal of Comparative Law, (1977), 1.

Manitoba, Accident and Sickness Compensation in Manitoba Vol. 1, pp. 3-9.

Posner, Richard, Economic Analysis of Law, Little Brown and Company, 1977, pp. 153-157.

Posner, Richard, "A Comment on No-Fault Insurance for All Accidents", 13 Osgoode Hall Law Journal, 471.

Robert Evans, "Universal Access - The Trojan Horse", 1976.

(ii) Negative Income Tax

William A. Klein, "Some Basic Problems of Negative Income Taxation", Wisconsin Law Review, 1966, No. 3.

Tobin, James, Pechman, J.A., & Mieszkowski, P.M., Is a Negative Income Tax Practical? The Yale Law Journal, volume, 77, Number 1, November 1967.

Joseph A. Pechman and P. Michael Timpane, eds., Work Incentives and Income Guarantees: The New Jersey Negative Income Tax Experiment (Washington, D.C. The Brookings Institution [1975]). pp. 1-12, 60-87.

Keeley, The Labour Supply Effects and Costs of Alternative Negative Income Tax Programme," Journal of Human Resources, Winter 1978, 1-27. Summary and Conclusions.

(iii) Canadian Reforms

Shifrin, L. Income Redistribution: Pipe Dreams & Pragmatism.

Financial Post, September 2nd 1978.

Forum, (Bob Rae) "Baby bonus changes merely 'a redistribution of poverty'"

Financial Post, September 2nd, 1978.

2. The Working Poor:

(A) Definition - National Council of Welfare

(B) Moral Hazard and Incentives

Garfinkel, I. Income Transfer Programs and Work Effort: A Review, U.S. Joint Economic Committee, Studies in Public Welfare, No. 13, 1974.

C. Green and J.M. Cousineau, Unemployment in Canada: The Impact of Unemployment Insurance. (Economic Council of Canada) (1976).

The Impact of the 1971 Unemployment Insurance Act on Work Incentives and the Aggregate Labour Market by Gregory V. Jump and Samuel A. Rea, Jr.

Unemployment insurance and labour supply: a simulation of the 1971 Unemployment Insurance Act by Samuel A. Rea.

Winter, "Poverty. Economic Equality, and the Equal Protection Clause," 1972 Sup. Ct. Rev. excerpted in Brudno, Income Maintenance.

Toronto Star, February 10, 1973

Globe and Mail, September 11, 1979

U.I.C.: Decisions of Umpire

Ontario Economic Council, Issues and Alternatives, 1976.

Mark Pauly, "The Economics of Moral Hazard: Comment", American Economic Review, Vol. 58, (1968), p. 531.

Re Brown & Social Assistance Review Board 3rd January 1978.

(C) Reform Work, Not Welfare

Reform Work, Not Welfare by Nathan Glazer

David M. Beatty, Labour is not a commodity.

Edward M. Cohan, Unemployment as a Taking Without Just Compensation

Levy, Lewis & Martin, Cases on Social Welfare and the Individual (U.S.) p. 194.

(D) Minimum Wages

Gunderson, Morley. Labour Market Economics: Theory, Evidence and Policy in Canada. Toronto: McGraw-Hill, Forthcoming Jan. 1980.

Karl Polanyi, The Great Transformation (New York: Farrar, 1944), pp. 86-102.

Globe & Mail, October 12, 1979.

Globe & Mail March 9, 1979.

Brozen, Y., Minimum Wage Rates & Household Workers 1962, 5 Jnl Law & Econ 103.